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EXAMINER

CATTUNGAL, AJAY P

ART UNIT

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2467

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,938	Applicant(s) STEIN ET AL.	
	Examiner AJAY P. CATTUNGAL	Art Unit 2467	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action has been examined. Claims 26-44 are pending.

Response to Amendment

2. The amendment filed on June 30, 2009 has been fully considered but are not deemed persuasive.

- Claims 26, 35, 39, 44 have been amended.

Response to Arguments

3. Applicant's arguments filed on June 30, 2009 have been fully considered but they are not persuasive.

Applicant on Page 9 states that the “feature 1 determining an advanced broadband technology to be produced by the distribution unit as a minimal default technology (DBAT)” is not taught by the cited reference. The Examiner respectfully disagrees. Czerwiec et al. Col 2 lines 9-36 teach of providing the customers with voice services as well as video services. Here the default technology would be the POTS technology which only handles voice and the more advanced technology would be the video service.

Further on page 9 Applicant state that “feature 2 in the distribution unit, arranging a second plurality of substantially uniform communication devices for serving the first plurality of subscribers” is not taught by the cited reference. Examiner respectfully disagrees. Czerwiec et al. Col 2 lines 50-55 teach of using hardwired video cards and switchable video cards. These two communication devices are substantially uniform communication devices.

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Further more on page 10 Applicant states that the feature of “individual permanent communication link” is absent from the cited reference. Examiner respectfully disagrees. Czerwiec et al. Col 2 lines 10-14 teaches of a single twisted wire pair being use to connect each of the subscribers and the ONU, which would be the individual permanent communication link.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 26-32, 34-41, 43-44 are rejected under 35 U.S.C. 102(b) as being unpatentable by Czerwiec et al. (5,903,372).

Re claim 26, Czerwiec et al. discloses a method of providing subscribers with communication services in accordance with their agreements with a service provider, the method comprises: determining a first plurality of subscribers to be connected to the service provider via a distribution unit located in an access network (Col 2 lines 9-35 teaches a set of primary subscribers that use a particular service connected to the ONU in the network); determining an advanced broadband technology to be produced by the distribution unit as a minimal default technology (DABT) (Col 1lines 24-30); in the distribution unit, arranging a second plurality of substantially uniform communication devices for serving the first plurality of subscribers (Col 2 lines 14 -20 here the uniform communication device is the video

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cards that provide video services to the primary subscribers. Note that primary subscribers are set of subscribers, subscribed for telephony service only (Col 3 lines 11-13)), and providing for each of said subscribers, irrespective of its individual agreement reached with the service provider, an individual permanent communication link (twisted pair wires) for supplying, from one of the communication devices, broadband communication services by using said DABT or a more advanced broadband technology (Col 2 lines 13-27), and enabling each of the plurality of subscribers to receive services in accordance with their respective agreements with the service provider (Col 2 lines 9-35 and Col 3 lines 4-22 teaches of an apparatus that has POTS and video services using VDSL or ADSL technology. There are some customers that subscribe to POTS and others who subscribe to video and some subscribe to both. Prior art also teaches that both the services are available to all the customers, and remote configuration of the system limits the subscriber to use only the services that the subscriber has subscribed to.).

Re claim 27, Czerwiec et al. discloses a method, wherein said DABT is VDSL (Very high data rate Digital Subscriber Line) (Col 1 lines 24-26).

Re claim 28, Czerwiec et al. discloses a method, wherein at least one of the subscribers is entitled to narrowband services only (Col 3 lines 11-13).

Re claim 29, Czerwiec et al. discloses a method, further comprising preventing the use, by a particular subscriber, of communication services not included in the agreement between said particular subscriber and the service provider (Col 4 lines 22-35 and Col 3 lines 11-13 Col 6 lines 7-12 teaches of adding video service to

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primary subscribers, that only subscribe to telephone services).

Re claim 30, Czerwiec et al. discloses a method of providing a narrowband subscriber (primary subscriber) with communication services in a converged broadband and narrowband communications access network, the method comprises establishing for said narrowband subscriber (primary subscriber) a communication link capable of carrying broadband communication services, while preventing the use by said subscriber of all communication services not included in an agreement between said subscriber and a service provider (Col 3 lines 11-13 and Col 4 lines 50-59).

Re claim 31, Czerwiec et al. discloses a method, wherein said communication link is being established between the narrowband subscriber (primary subscriber) and a communication device installed in a distribution unit (Col 4 lines 25-30 ONU)and supporting said broadband communication services (Col 3 lines 11-13 and Col 4 lines 50-59).

Re claim 32, Czerwiec et al. discloses a method, wherein said preventing is performed by remotely configuring the communication device located at the distribution unit and associated with said particular subscriber, where the configuration is carried out from a Local Exchange (Col 4 line 25-30 remote terminal) connected to the distribution unit (Col1 lines 10-18, Col 3 lines 11-13 and Col 4 lines 51-59).

Re claim 34, Czerwiec et al. discloses a method, further comprising a step of reconfiguring (remotely provided with video services at a later date) according to an

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updated subscriber's agreement with the service provider (Col 3 lines 11-13 and Col 6 lines 7-12).

Re claim 35, Czerwiec et al. discloses a communication service distribution unit for use in a converged broadband and narrowband access network, comprising a first plurality of substantially uniform communication devices for serving a second plurality of subscribers associated with the distribution unit, wherein each of said communication devices are configured to provide to its corresponding subscriber either a technologically advanced broadband communication service (DABT), as a minimal default communication service, or a more advanced broadband communication service via an individual permanent communication link, and wherein said subscribers include at least one narrowband subscriber (Col 1 lines 24-30, Col 2 lines 9-35 and Col 3 lines 4-22 teaches of an apparatus that has POTS and video services using VDSL or ADSL technology. There are some customers that subscribe to POTS and others who subscribe to video and some subscribe to both. Prior art also teaches that both the services are available to all the customers, and remote configuration of the system limits the subscriber to use only the services that the subscriber has subscribed to).

Re claim 36, Czerwiec et al. discloses a distribution unit, adapted to provide a more technologically advanced communication (video services) service to a limited number of the subscribers (Col 6 lines 7-12).

Re claim 37, Czerwiec et al. discloses a distribution unit, wherein said broadband communication service is a technologically advanced type of communication service selected from a non-exhaustive list comprising: ADSL (Asymmetrical Digital Subscriber

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Line), VDSL (Very high data rate DSL), SHDSL (Single line High bit-rate DSL) (Col 1 lines 24-31).

Re claim 38, Czerwiec et al. discloses a distribution unit , comprising a plurality of communication devices capable of providing one and the same technologically advanced broadband communication service to all broadband and narrowband subscribers associated with the unit (Col 3 lines 11-13 and Col 4 lines 51-59).

Re claim 39, Czerwiec et al. discloses a service filtering means operative to derive, from a technologically advanced broadband communication service reserved for a particular subscriber at a distribution unit in an access network, only communication services agreed between said particular subscriber and a service provider (Col 1 lines 42-45 and Col 6 lines 7-12), wherein said service reserved for the particular subscriber is at least a minimal default advanced broadband communication service (DABT) of the distribution unit available for delivering to the subscriber via an individual permanent communication link (Col 2 lines 10-35)

Re claim 40, Czerwiec et al. discloses a service filtering means, being configurable (Col 6 lines 7-12).

Re claim 41, Czerwiec et al. discloses a service filtering means, remotely configurable and associated with a communication device providing said broadband communication service at the distribution unit (Col 1 lines 42-52).

Re claim 43, Czerwiec et al. discloses a distribution unit, comprising a service filtering means operative to derive, from the technologically advanced broadband communication service reserved for a particular subscriber at the distribution unit, only

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communication services agreed between said particular subscriber and a service provider (Col 1 lines 42-45 and Col 6 lines 7-12).

Re claim 44, Czerwiec et al. discloses a system for providing broadband and narrowband subscribers with communication services in accordance with their agreements with a service provider, the system comprises a distribution unit accommodating at least one communication device operative to provide a minimal default broadband communication service (DABT) of the distribution unit, or a more advanced broadband communication service and connected to the narrowband subscriber via an individual permanent communication link and via a service filtering means; the service filtering means being operative to prevent the use by the narrowband subscriber of communication services not included in an agreement between said narrowband subscriber and the service provider (Col 2 lines 9-35 and Col 3 lines 4-22 and Col 1 lines 42-45 teaches of an apparatus that has POTS and video services using VDSL or ADSL technology. There are some customers that subscribe to POTS and others who subscribe to video and some subscribe to both. Prior art also teaches that both the services are available to all the customers, and remote configuration of the system limits the subscriber to use only the services that the subscriber has subscribed to. It also teaches of a filter that would be used to filter the video and telephone services respectively according to the subscription of the subscriber).

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
8. Claims 33 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czerwiec et al. (5,903,372) in view of Briggs et al. (US 2004/0049795).

Re claim 33, Czerwiec et al. discloses the claimed invention as set forth in claim 30 above. Czerwiec et al. does not disclose a method, wherein said preventing is performed by providing at least one of the subscribers with a Customer Premises Equipment (CPE) unit specifically configured to provide only services in accordance with the subscriber's agreement with the service provider. However Briggs et al. discloses a method, wherein said preventing (Para 37 lines 11 Video on demand service is like a preventing service, where the service is available to all the users but is

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not accessible by the user unless the user pays for the service) is performed by providing at least one of the subscribers with a Customer Premises Equipment (CPE) unit (customer premises equipment (CPE)) specifically configured to provide only services in accordance with the subscriber's agreement with the service provider (Para 37). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the remote addition of video services method of Czerwiec et al. with the customer premises equipment of Briggs et al. in order to provide a way to add and remove video services remotely without dispatching personal to the ONU.

Re claim 42, Czerwiec et al. discloses the claimed invention as set forth in claim 39 above. Czerwiec et al. does not disclose a service filtering means, comprising a Customer's Premises Equipment (CPE) unit for use in said subscriber's premises. However Briggs et al. discloses a service filtering means (Para 37 lines 11 Video on demand service is like a preventing service, where the service is available to all the users but is not accessible by the user unless the user pays for the service), comprising a Customer's Premises Equipment (CPE) unit (customer premises equipment (CPE)) for use in said subscriber's premises (Para 37). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the remote addition of video services method of Czerwiec et al. with the customer premises equipment of Briggs et al. in order to provide a way to add and remove video services remotely without dispatching personal to the ONU.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJAY P. CATTUNGAL whose telephone number is (571)270-7525. The examiner can normally be reached on Monday- Friday 7:30 - 5:00, Alternating Fridays OFF.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. C./

Examiner, Art Unit 2467

/Pankaj Kumar/

Supervisory Patent Examiner, Art Unit 2467